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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/932,910	08/20/2001	Gregory T. Whiteker	1998U020AD1.US	9327

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[REDACTED] EXAMINER

PASTERCZYK, JAMES W

ART UNIT	PAPER NUMBER
1755	7

DATE MAILED: 07/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. <b>09/932,910</b>	Applicant(s) <b>Whiteker et al.</b>
	Examiner <b>J. Pasterczyk</b>	Art Unit <b>1755</b>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.138 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)  Responsive to communication(s) filed on Jun 24, 2003

2a)  This action is **FINAL**.      2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

**Disposition of Claims**

4)  Claim(s) 1-36 is/are pending in the application.

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-36 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12)  The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some\* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a)  The translation of the foreign language provisional application has been received.

15)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____	6) <input type="checkbox"/> Other: _____

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1. This Office action is in response to the amendment filed 6/24/03 and refers to the rejection mailed 2/26/03.
2. Claims 1-36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, l. 3, end the line with a comma; in the next line change the semicolon to --being--. On the following page delete the first line; in the third lne change "may be" to --are--; in l. 4 change "may be" to --is--; it is not clear why R<sup>1</sup> is not one of the groups that may contain a heteroatom; nevertheless, put a comima after R<sup>2</sup>. In l. 5 insert --being-- before "selected". In l. 7, delete the lead comma, change the second comma to --and--, insert --and-- before "any", change each "may" to --is--, and insert --directly-- after "bound". In l. 13-14, the R group may not be R<sup>3</sup>, hence the R group may not be any of R<sup>1</sup> to R<sup>5</sup> as there recited. In l. 17 delete "the". In l. 27 change "than" to --then-- and "metal carbon" to --ipso carbon--.

In claim 3, reciting the transition metal as being a group 4 metal broadens the scope of protection since claim 1 only recites the metal may be Hf or Zr from group 4 but not Ti. Also, "the transition metal" now lacks antecedent basis; it is suggested that phrase be replaced with --M--.

In claim 4 replace "the transition metal" with --M--.

In claim 5, l. 2, delete "transition".

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In claim 7, l. 1, delete "either"; in l. 2 change "or" to a comma and insert a comma after "activator".

In claim 8, "Ziegler-Natta catalyst" is such a broad term, nowadays comprising both titanium halide/aluminum alkyl mixtures as well as metallocene/alumoxane mixtures, that it has lost any specific meaning, hence the claim is vague and indefinite.

In claim 11, l. 4, insert --a-- before "trialkyl borane" since this is only a generic compound.

In claim 12, second page, text l. 2, insert commas after R<sup>1</sup> and R<sup>2</sup>, and change "is" to --are--; in l. 3, delete the comma after "hydrogen", and it is not clear why R<sup>1</sup> is not one of the groups that contain a heteroatom; in l. 4 insert --being-- before "selected"; in l. 6 delete the comma beginning the line, insert --and-- before "tellurium", insert --and-- before "any", delete "be", and insert --directly-- after "bound". In l. 12, the bond from Q to the R group cannot be to any of the R groups since R<sup>3</sup> does not contain a heteroatom, hence the R groups should be recited as specifically R<sup>1,2,4</sup> or<sup>5</sup>.

In claim 14, Q cannot be a bond to any of R<sup>1-5</sup> since it broadens the claim as claim 12 does not permit a bond to R<sup>3</sup>.

In claim 21, change "have formed" to --form--.

In claim 22, change "have formed a multi-ring system" to --form a fused-ring system--.

Claim 23 broadens claim 12 from which it depends since Ti is not a metal recited as being M in claim 12.

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In claim 29, l. 1, delete "either"; in l. 2 change "or" to a comma, change the second "the" to --their--, and delete "thereof"; in l. 3 change the semicolon after "talc" to a comma.

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1, 12, 16-18, 20, 26 and 35 are rejected under 35 USC 102(b) as being anticipated by Bell as cited in and for the reasons of record given in paragraph 4 of the first Office action.

5. Claims 1, 2, 12, 13, 16-18 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Basset as cited in and for the reasons of record given in paragraph 5 of the first Office action.

6. Claims 1-4 and 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Katayama as cited in and for the reasons of record given in paragraph 7 of the previous Office action.

7. Claims 1-3, 12, 13, 16, 23, 24 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Coleman as cited in and for the reasons of record given in paragraph 8 of the first Office action.

8. Applicant's arguments filed 6/24/03 have been fully considered but they are not persuasive.

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Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Pasterczyk whose telephone number is (703) 308-3497. The examiner can normally be reached on M-F from 9 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Bell, can be reached on (703) 308-3823. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9310 for normal faxes, 872-9311 for after final faxes.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Mark L. Bell  
Supervisory Patent Examiner  
Technology Center 1700



J. Pasterczyk

AU 1755

7/11/03